

FILED

MAY 20 1999

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:) CHAPTER 7
) CASE NO. 98-02675-5-ATS
INTERNATIONAL HERITAGE, INC.)
)
INTERNATIONAL HERITAGE,) CHAPTER 7
INCORPORATED,) CASE NO. 98-02674-5-ATS
)
Debtors.)

EX PARTE
MOTION TO FURTHER EXTEND TIME TO
ASSUME OR REJECT EXECUTORY CONTRACT

NOW COMES Holmes P. Harden, Trustee in the above-captioned case, and alleges:

1. Holmes P. Harden is the duly qualified and acting trustee herein.
2. An order for relief in the above-captioned cases was entered on November 25, 1998.
3. One or both of the debtors is party to a Director and Officer's Policy ("the policy") with TIG Insurance Company.
4. Trustee is informed and believes and therefore alleges that the policy is paid up for one year.
5. The policy contains the right to purchase "tail coverage" for matters occurring during the policy period which might give rise to claims made after the policy period. According to Paragraph IX of the policy, the right to extend the reporting period is exercisable upon payment of an additional premium. If it is in the best interest of the estate to buy tail coverage, Trustee believes that former officers and directors of the debtor should contribute to the purchase price. Trustee has not determined whether to purchase the extra coverage or whether former officers and directors of the debtor would agree to share the cost of purchasing tail coverage.
6. According to 11 U.S.C. § 365(d), executory contracts are deemed rejected by operation of law unless the Court extends the time within which the Trustee may assume or reject same. The time within which the Trustee may assume or reject in these cases originally expired on January 24, 1999, but this court extended the time to assume or reject to March 26, 1999, then further extended the time to assume or reject to May 21, 1999.

7. Trustee has contacted the agent for the coverage, Richard Corbin, and is informed and believes that the period within which tail coverage may be purchased runs to and including July 22, 1999. Trustee is further informed that the cost of one further year of coverage is \$85,000.00, plus applicable tax. The estate has no funds with which to purchase tail coverage at this time, but Trustee does not want to prejudice the estate's right to purchase such coverage or any officer or director's right to purchase such coverage.

8. Trustee does not contend or admit that the policy is executory, but Trustee believes it prudent to preserve the estate's rights to purchase tail coverage pending a determination whether the estate will pay any of the additional premium and the source of funds with which to pay the premium.

9. Trustee requests a further extension to and including July 22, 1999.

10. The requested extension does not impair the rights of any entity.

WHEREFORE, Trustee prays that this Court makes its order further extending the time within which he may assume or reject any executory contract existing between either or both of the Debtors and TIG Insurance Company up to and including July 22, 1999.

Respectfully submitted this 20th day of May, 1999.

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CERTIFICATE OF SERVICE

I, Holmes P. Harden, do hereby certify that the foregoing or attached document was served upon all parties of record by mailing a copy thereof to them at the addresses indicated below with the proper postage attached and deposited into an official depository under the exclusive care and custody of the United States Postal Service in Raleigh, North Carolina, on the 20th day of May, 1999.

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